(91)

C.F. 12200/

(20)

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR
CHHATTISGARH

W.P.NO. 785 2002

PETIONERS :

1. Shri Shyam Samalal Sahu S/o Ramsingh age about 51years Society Manager Chouranga Distt. Co-Operative Bank, Branch Simga

2. Shri B.R. Verma S/o Kartik Ram age about 46 years Society Manager Beldar Shivni Chouranga Distt. Co-Operative Bank, Kharora

3. Shri Ramlal Sahu S/o Manthrilal Sahu aged about 55 years Society Manager Khumhari Distt. Co-Operative Bank,Br. Kharora

P. R. No. 785/02
Presented by Shri ... Rajak
dt. 16-4-02

4. Shri Sharad Kumar Sinha S/o Niranjan age about 47 Society Mgr. Bangoli Distt. Co-Operative Bank,Branch Kharora

5. Shri Chuva Ram Verma S/o Rupsingh age about 50 years Society Mgr. Budeni Distt. Co-Operative Bank, Branch Kharora

6. Shri Bhuwanlal Verma S/o Ramlal age about 54 Society Mgr. Pachiri Distt. Co-Operative Bank, Branch Kharora

7. Shri Bisheram Dhurandhar age about 50 years Society Mgr. Kanki Distt. Co-Operative Bank, Branch Kharora

8. Shri Rikhiram Sahu S/o Derharam age about 40 years Society Mgr. Pharhada Distt. Co-Operative Bank, Branch Kharora

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9. Shri Suresh KumarVerma S/o Khalanath age about 40 years Society Manager Kharora Distt. Co-Operative Bank,Branch Kharora

10. Shri Dwaraka Prasad Sharma S/o Govind Prasad age about 56 years Society Manager Ganiyari Distt. Co-Operative Bank, Br. Kharora

11. Shri B.L.Verma S/o Premlal age about 45 years Society Manager Bhaisa Distt. Co-Operative Bank, Branch Bhaisa

12. Shri GaneshramSahu S/o Kishanram age about 57 years Society Manager Koshrangi Distt. Co-Operative Bank, Branch Bhaisa

13. Shri Hariram Verma S/o Jeevan Prasad age about 52 years Society Manager Bandar Distt. Co-Operative Bank, Branch Bhaisa

14. Shri Bagavati Prasad Verma S/o Badhri Prasad age about 51 years Society Manager Amodi Distt. Co-Operative Bank, Branch Bhaisa

15. Shri Ram Verma S/o Mayaram age 47 Society Manager Kutela (Chikhali) Distt. Co-Operative Bank, Branch Bhaisa

16. Shri Johanlal Patel S/o Samarulal age about 52 years Society Mgr. Sakari Distt. Co-Operative Bank,Branch Bhaisa.

17. Shri Ramkumar Verma S/o Ramdayal age about 48 years Society Manager RengadiahDistt. Co-OperativeBank, Branch Kodawa

18. Shri Sukaluram Verma S/o Sukhram age about 52 years Society Manager Gadabhata Distt. Co-Operative Bank, Branch Kodawa

घपथ आयुक्त, एस के शुक्ला बिलासपुर बिलासपुर तहसील कोर्ट

19. Shri Chatursingh Verma S/o Pachkor Singh age about 54 years Society Manager Devosundra Distt. Co-Operative Bank, Branch Kodawa

20. Shri Narshihram Sahu S/o Phaguwa age about 53 years So ciety Manager Girra Distt. Co-Op erative Bank,Branch Kodawa

21. Shri Shavakaram Phekar S/o Hariram age about 46 years Soci ety Manager Bhawanipur Distt. Co-Operative Bank,Br. Kodawa

22. Shri Surendra Kumar Verma S/o Ratunu age about 26 years Soci ety Manager JarweDistt. Co-Opera tive Bank,Branch Kodawa

23. Shri Jageswar Prasad Naik S/o B.R.Naik age about 27 years Soci- ety Manager Telashi Distt. Co-Op erative Bank, Branch Kodawa

24. Shri Manrakhanlal Sahu S/o T.R.Sahu age about 47 years Soci ety Man ager Batgan Distt. Co-Operative Bank, Br.Kodawa

25. Shri Shukiram Verma S/o B.L.Verma age about 52 yrs. So ciety Mgr. Khartora Distt.Co-Op erative Bank, Branch Kodawa

26. Shri Chetansingh Verma S/o A.R. Verma age about 45 years So ciety Manager Rohanshi Distt. Co-Operative Bank, Branch Rohanshi

27. Shri P.L.ChandraVamshi S/o Pachikhood Chandravemshi age about 52 years Society Manager Datrangi Distt. Co-Operative Cen tral Bank, Branch Rohanshi

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28. Shri Janikramrajak S/o Shirujuram aged about 50 years Society Manager Keshile Distt. Co-Operative Central Bank, Branch Bhatbhera

29. Shri Mohitram Verma S/o K.S.Verma aged about 51 years Society Manager Mohara Distt. Co-Operative Central Bank, Branch Bhatbhera

30. Shri Asharam Verma S/o Prabhuram aged about 47 years Society Manager Shuhala Distt. Co-Operative Central Bank, Branch Bhatbhera

31. Sri Jethuram Verma S/o Chintaram aged about 54 years Society Manager Sawalore Distt. Co-Operative Central Bank, Branch Bhatbhera

32. Sri Gendhram Verma S/o J.R.Verma aged about 49 years Cociety Manager Tilda Distt. Co-Operative Central Bank, Branch Lawan

33. Sri Rambagash Sahu S/o Anandram Sahu aged about 47 years Society Man ager Verdha Distt. Co-Operative Central Bank, Branch Lawan

34. Sri Bhayalal Pathak S/o Bharatlal Pathak aged about 53 years Society Manager Kehira Distt. Co-Operative Central Bank, Branch Lawan

35. Sri G.R.Yadhu S/o Bhulvaram aged 57 years Society Manager Siriyadhi Distt. Co-Operative Central Bank, Branch Lawan

36. Sri Panchkumar Verma S/o S.R.Verma aged about 54 years Society Mgr. Kohurod istt. Co-Operative Central Bank, Branch Lawan

37. Sri Pathiram Sahu S/o R.L.Sahu aged about 45 years Society Mgr. Sarshor Distt. Co-Operative Central Bank, Branch Lawan

38. Sri G.P.Bansal S/o rameswar aged about 46 years Society Mgr. Lawan Distt. Co-Operative Central Bank, Branch Lawan

39. Sri Vasudev Awasthi S/o Dwaraka Prasad aged 52 years Society Manager Jangadha Distt. Co-Operative Central Bank, Branch Hathband

40. Sri B.P.Verma S/o Fulsingh aged about 46 yrs. Society Manager Helora Distt. Co-Operative Central Bank, Branch Hathband

41. Sri Anandram Saw S/o Durjan aged about 51 years Society Mgr. Bitukuli Distt. Co-Operative Central Bank, Branch Hathband

42. Sri Sukhlal Verma S/o Bodhansing aged about 52 years Manager Hathband Distt. Co-Operative Central Bank, Branch Hathband

43. Sri Raguram S/o Marakan aged about 34 years Society Manager Kathiya Distt. Co-Operative Central Bank, Branch Tilda

44. Sri Vishwaram Nayak S/o Bhakuram aged about 57 years Society Mgr. Tanduwa Distt.Co-Operative Central Bank, Branch Tilda

45. Sri Alakram Verma S/o Tulshiram Verma aged about 55 years Society Manager Chathuvad Distt. Co-Operative Central Bank, Branch Tilda

46. Sri Ramdinbaghel S/o T.R.Baghel aged abut 50 years Society Manager Torhada Distt. Co-Operative Central Bank, Branch Tilda

47. Sri Jeevanlal Dhurandhar S/o Baniram aged about 53 years Society Manager Sarphonga Distt. Co-Operative Central Bank, Branch Tilda

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48. Sri Bhuwanlal Verma S/o Girdharilal aged about 50 years Society Mgr. Tilda Distt. Co-Operative Central Bank, Branch Tilda

49. Sri Rahitramyadu S/o Barosaram aged about 52 Society Mgr. Mohada Distt. Co-Operative Central Bank, Branch Tilda

50. Sri Jayram Verma S/o Jaduram Aged about 44 years Society Manager Sarora Distt. Co-Operative Central Bank, Branch Tilda

51. Sri Mohitram Sahu S/o R.R.sahu aged about 52 years Society Manager Moharanga DisttCo-Operative Central Bank, Branch Tilda

52. Sri Santhoskumar Verma S/o T.R.Verma aged 40 years Society Manager Champa Distt Co-Operative Central Bank, Branch Tilda

53. Madhovram Dhurander S/o Ramnad aged about 46 years Society Manager Dewri Distt. Co-Operative Central Bank, Branch Tilda

54. Sri Hamuram Ram Verma S/o tulshiram aged about 53 Society Manager Biladi Distt. Co-Operative Central Bank, Branch Tilda

55. Sri Nirbhayram Yadav S/o Kachuru aged about 50 years Society Manager Sankara Distt. Co-Operative Central Bank, Branch Tilda

56. Sri Malikram Verma S/o Ramkishan aged about 51 years Society Manager Rohara Distt. Co-Operative Central Bank, Branch Simga

57. Dasururam Verma s/o Ramkishan aged about 51 Society Manager Damakhada Distt. Co-Operative Central Bank, Branch Simga

58. Sri Neelsham Sahu S/o Itavariram aged about 41 years Society Manager Simga Distt. Co-Operative Central Bank, Branch Simga

59. Sri. F.L.Sahu S/o Sukaluram aged about 50 years Society Manager Ponsari Distt. Co-Operative Central Bank, Branch Simga

60. Sri Punaram Verma S/o B.L.Verma aged about 51 years Society Manager Siliyari Distt. Co-Operative Central Bank, Branch Siliyari

61. Sri Tukaram Verma S/o H.L.Verma aged about 53 years Society Manager Saragaon Distt. Co-Operative Central Bank, Branch Siliyari

62. Sri Shivkumar Verma S/o S.R.verma aged about 49 years Society Manager Madhi Distt. Co-Operative Central Bank, Branch Siliyari

63. Shri Ashokumar Sahu S/o Dharmoprasad aged about 43 years Society Manager Khona Distt. Co-Operative Central Bank, Branch Siliyari

64. Shri B.D.Ansari S/o Shekbiloudin aged about 41 years Society Manager Kirana Distt. Co-Operative Central Bank, Branch Siliyari

65. Shri Mansing Sahu S/o B.R.Sahu aged about 50 years Society Manager Malod Distt. Co-Operative Central Bank, Branch Siliyari

66. Shri Gopalram Sahu S/o Rekharam aged about 49 years Society Manager Karga Distt. Co-Operative Central Bank, Branch Maroodh

67. Shri Vijaylal Sahu S/o Angoriram aged about 43 years Society Manager Kurud Distt. Co-Operative Central Bank, Branch Kurud

68. Shri Tejnath Sahu S/o Radheshyam aged about 32 years Society Manager Gatadhi Distt. Co-Operative Central Bank, Branch Kurud

69. Shri S.P.Sahu S/o Rathiram aged about 47 years Society Manager Bhatagaon Distt. Co-Operative Central Bank, Branch Kurud

70. Shri J.K.Chandrakar S/o Ramlal Chandrakar aged about 52 years Society Manager Gharra Distt. Co-Operative Central Bank, Branch Kurud

71. Shri Mangturam Sahu S/o B.D. Sahu aged about 49 years Society Manager Sivinikala Distt. Co-Operative Central Bank, Branch Kurud

72. Shri Rahitpalram Sahu S/o Mayaram Sahu aged about 54 years Society Manager Gudguda & Kokdi Distt. Co-Operative Central Bank, Branch Kurud

73. Shri R.H.Patel S/o Phakuram aged about 42 years Scoiety Manager Megha Distt. Co-Operative Central Bank, Branch Kurud

74. Shri D.R.Sahu S/o Hiralal Sahu aged about 57 years Society Manager belardhona Distt. Co-Operative Central Bank, Branch Kurud

75. Shri Eswarlal Sahu S/o ..... aged about 32 years Salesman Kapalphodhi Distt. Co-Operative Central Bank, Branch Kurud

76. Shri Ghansayam Sinha S/o Gashiram aged about 52 years Society Manager Mohidi Distt. Co-Operative Central Bank, Branch Magargalod

77. Shri Ramlal Sahu S/o S.S.Sahu aged about 53 years Society Manager Singpur Distt. Co-Operative Central Bank, Branch Magargalod

78. Shri G.R.Sahu S/o Badulram aged about 56 years Society Manager Bhandri Distt. Co-Operative Central Bank, Branch Magargalod

79. Shri G.P.Sahu S/o Bisururam Sahu aged about 51 years Society Manager karali Distt. Co-Operative Central Bank, Branch Magargalod

80. Shri Manthirlal Sahu S/o Threeloki aged about 50 years Society Manager Khishora Distt. Co-Operative Central Bank, Branch Magargalod

81. Shri C.H.Chandrakan S/o Jeewan aged about 48 years Society Manager Margargalod Distt. Co-Operative Central Bank, Branch Magargalod

82. Shri Payarelal Sahu S/o Ramsingh Sahu aged about 50 years Society Manager Khorpa Distt. Co-Operative Central Bank, Branch Korpa

83. Shri Punaram Sahu S/o L.R.Sahu aged about 51 years Society Manager Kilora Distt. Co-Operative Central Bank, Branch Korpa

84. Shri Kanayalal Patel S/o Angorilal aged about 53 years Society Manager Tohara Distt. Co-Operative Central Bank, Branch Korpa

संयुक्त आयुक्त, बिलासपुर संभाग बिलासपुर

85. Shri Ramadhar Yadav S/o Rajaram aged about 35 years Society Manager Ravali Distt. Co-Operative Central Bank, Branch Korpa

86. Shri Basantram Rawat S/o G.R.Rawat aged abut 54 years Society Manager Takari Distt. Co-Operative Central Bank, Branch Korpa

87. Shri Amarsingh Sahu S/o F.R.Sahu aged about 46 years Supervisor Distt. Co-Operative Central Bank, Branch Abhanpur

88. Shri Dilip Kumar Sharma S/o G.L.Sharma aged about 41 years Society Manager Kendri Distt. Co-Operative Central Bank, Branch Abhanpur

89. Shri G.L.Diwangan S/o Veersing aged 48 years Society Manager Sivini Distt. Co-Operative Central Bank, Branch Abhanpur

90. Shri A.R.Nishad S/o Nanduram aged about 52 years Society Manager Pachada Distt. Co-Operative Central Bank, Branch Abhanpur

91. Shri Ghashiram Sahu S/o L.R.Sahu aged about 52 years Society Manager Navapara Distt. Co-Operative Central Bank, Branch Abhanpur

92. Shri Jathuram Lahari s/o Tijram aged about 47 yrs. Society Manager Navapara Distt.Co-Operative Central Bank, Branch Navapara

93. Shri Kamal Narayan Sharma s/o A.D.Sharma aged about 50 yrs. Society Manager, MankichouryDistt. Co-Operative Central Bank, Branch-Navapara

94. Shri Shiv Kumar Sahu s/o Raja Ram aged about 43 yrs. Society Manager, Pod Distt. Co-Operative Central Bank, Branch Navapara

95. Shri Chandrika Pd. Sahu s/o Kishan lal aged about 48 yrs. Society Manager, Kathia Distt.
Co-Operative Central Bank,
Branch- Navapara

96. Shri Kansi Ram Sahu, s/o Kheda ram aged about 50 yrs., Supervisor Champajhar Distt.
Co-Operative Central Bank,
Branch Navapara.

97. Shri Sant Ram Kashyap s/o A.R.Kashyap aged about 50 yrs. Society Manager Champajhar Distt.
Co-Operative Central Bank,
Branch Navapara.

98. Shri Raruha Pd. Chandrakar s/o Roman lal aged about 54 yrs. Society Manager, Baronda Bazar Distt.
Co-Operative Central Bank,
Branch Mahasamund.

99. Shri Ratanlal Sen s/o Rama Sen aged about 51 yrs. Society Manager, Belsundra
Distt.
Co-Operative Central Bank,
Branch Mahasamund

100. Shri Premlal Sahu s/o Sukhdev Sahu aged about 43 yrs. Society Manager, Konkera
Distt.
Co-Operative Central Bank,
Branch Manasamund

101. Shri Ashok Kumar Sahu s/o Seva Ram Sahu, aged about 42 yrs. Society Mgr. Jhalkhamriya
Distt.
Co-Operative Central Bank,
Branch Mahasmunda

102. Shri Bharat Gir Goswami s/o Pachkaur
aged about 51 yrs. Society Manager,
Khatti
Distt. Co-Operative Central Bank,
Branch Manasamunda

103. Shri Kumar Pd.Verma s/o Sharda Pd.
Verma, aged about 42 yrs.
Society Manager, Tumgaon
Distt.
Co-Operative Central Bank,
Branch Tumgaon

104. Shri Makraj Dhwaj Patel s/o Bhavgrahi
aged about 52 yrs., Society Manager,
Jalki,
Distt.
Co-Operative Central Bank,
Branch Tumgaon

105. Shri Bhau Ram Sahu s/o Bhanu ram
aged about 44 yrs. Society Manager
Sirpur
Distt.
Co-Operative Central Bank,
Branch Tumgaon

106. Shri Hajaru Ram Pradhan s/o Ishwar
aged about 46 yrs. Society Manager
Patrala
Distt.
Co-Operative Central Bank,
Branch Perada

107. Uttam Kumar Bhoi s/o Soumitri Pd.
aged about 53 yrs. Society Manager
Arangi
Distt.
Co-Operative Central Bank,
Branch Perada

108. Shri Shyamlal Yadav s/o Manaohar lal
aged about 53 yrs. Society Manager
Sarkada
Distt.
Co-Operative Central Bank,
Branch Perada

109. Shri Nanda Kumar Chandrakar
s/o Ghasu ram Chandrakar,
aged about 49 yrs. Society Mgr.
Perada
Distt.Co-Operative Central Bank,
Branch Perada.

110. Shri Sada Ram Sahu s/o Raja ram
aged about 56 yrs. Society Mgr.
Sapous
Distt.
Co-Operative Central Bank,
Branch Sankara

111. Shri Bansi lal Nasine s/o Thukel
aged about 51 yrs. Society Manager
Saldi
Distt.
Co-Operative Central Bank,
Branch Sakara

112. Shri Ram Singh Sahu s/o Seva ram
aged about 40 yrs. Society Manager
Pendravan
Distt.
Co-Operative Central Bank,
Branch Sankara

113. Shri Manaharan lal Pandey s/o Chhedi
lal Pandey aged about 55 yrs. Society
Manager, Sankara
Distt.
Co-Operative Central Bank,
Branch Sankara

114. Shri Chaman lal Sen s/o Shobhu ram
aged about 55 yrs. Society Manager
Bawankera
Distt.
Co-Operative Central Bank,
Branch Jhalap

115. Shri Kejau Ram Fekar s/o Sukhlal
aged about 54 yrs. Society Manager
Patewa
Distt.
Co-Operative Central Bank,
Branch Jhalap

116. Shri Ganesh Ram Sao s/o Chandrabadan
aged about 54 yrs. Society Manager
Nartora,
Distt.
Co-Operative Central Bank,
Branch Jhalap

117. Shri Yadram Dhruv s./o Jhaduram
aged about 38 yrs. Society Manager
Raytum
Distt.
Co-Operative Central Bank,
Branch Jhalap

118. Shri Siya Ram Kannoje s/o Hiraman
aged about 51 yrs. Society Manager
Bichhiya
Distt.
Co-Operative Central Bank,
Branch Basana

119. Shri Rajkumar Pradhan s/o Hitlal
aged about 29 yrs. Society Manager
Bhukel
Distt.
Co-Operative Central Bank,
Branch Basana

120. Shri Jageshwar Pd.Sahu s/o Ankur Sahu
aged about 42 yrs. Society Manager,
Badedhaba
Distt.
Co-Operative Central Bank,
Branch Basana

121. Shri Subhash Pradhan s/o Suresh
aged about 41 yrs. Society Manager
Garhphuljhar
Distt.
Co-Operative Central Bank,
Branch Basana

122. Shri Nathulal Patel s/o Ghasiram
aged about 52 yrs. Society Manager
Akori
Distt.
Co-Operative Central Bank,
Branch Basana

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Versus

Respondents :

1. State of Chhattisgarh through the Principle Secretary Co-operative DKS Bhawan, Raipur.
2. District Central Co-operative Bank Ltd., Raipur, through the Chief Executive Officer, G.E. Road, Raipur.
3. District Central Co-operative Ltd., Mahasamund, through the Chief Executive Officer Station Road, Mahasamund.
4. District Central Co-operative Ltd., Dhamtari through the Chief Executive Officer, Ram sagar para, Dhamtari, Dist : Dhamtari.
5. The Registrar Co-operative Societies, Krushak Nagar, Labhandi Raipur.
6. The Addl. Registrar Co-operative Societies, Krushar Nagar, Labhandi, Raipur.
7. The Hon'ble State Minister for food and Civil Supply, Shri Mohammad Akbar Khan, DKS Bhawan, Raipur.

WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA

1. **Particulars of the Petitioners.**

   As per cause title.

2. **Pariculars of the Respondents.**

A.P.R.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.764/2002

Shri Narayan Singh & Others

Versus

State of Chhattisgarh and Others

O R D E R

Per Hon'ble Fakhruddin, J.

This order shall also dispose of W.P.Nos. 725/2002, 785/2002 and 875/2002,

2. The petitioners have filed this petition and other petitions jointly and not individually under Article 226/227 of the Constitution of India praying that the respondents be directed not to take any action against the petitioners on the basis of the declaration made in the State Assembly on 22-3-2002 and further that the respondents be directed not to take any action against the petitioners till a detailed enquiry is conducted by the responsible authorities giving full opportunity to the petitioners. The petitioners further pray that the respondents be restrained from taking any criminal or departmental action against the petitioners and further that the respondents be directed not to harass the petitioners and also that the respondents be directed not to

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take any action against the petitioners in view of the letter dated 8/4/2002 issued by respondent no.5.

3. The contention of the petitioners is that the decision has been taken to suspend them and register a criminal case against them. It is submitted that they are employees and governed by Service Rules & Regulations.

4. State has filed the return in W.P. No.764/2002 and the contents of the return have been adopted in other petitions.

5. It is contended by the respondents that certain complaints were made against the petitioners, who are working in different primary co-operative societies, that they are working under the duress of the officers of the District Co-operative Central Bank, Raipur in the matter of purchase of Gunny Bags and thereby benefited themselves. On the basis of these complaints, an enquiry was conducted for Raipur, Mahasamund and Dhamtari districts. The enquiry tem was comprising with Dy. Registrar, Co-operative Societies, which is a Class-I post, and a senior post in the hierarchy of the Co-operative department. The five enquiry teams were constituted by the Additional Registrar of Co-operative Societies. The committees have submitted their report vide Annexure-A/6 and the State Government after taking into all reasonable aspects of the enquiry report decided to conduct enquiry. Then certain questions were asked in Vidhan Sabha and the matter was discussed. The discussion whatever was

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taken place cannot be a matter of enquiry in the writ petition.

6. Having heard the learned counsel for the parties and considering the material available on record, so far as the employees of State Government are concerned, in the opinion of this Court, they are governed by M.P. Civil Services (Classification, Control and Appeal) Rules, 1966. These rules provide safeguard to the employees.

7. Rule 9 of the aforesaid rules relates to suspension of the employees, which is quoted below :

> "9.(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any authority empowered in that behalf by the Governor by general or special order, may place a government servant under suspension –
>
> (a) where a disciplinary proceeding against him is contemplated or is pending; or
>
> (b) where a case against him in respect of any criminal offence is under inventilation, enquiry of trial:
>
> (2) A government servant shall be deemed to have been placed under suspension by an order of appointing authority-
>
> (a) with effect from the date of his detention, if he is detained in custody whether on a criminal charge or otherwise for a period exceeding 48 hours:
>
> (b) with effect from the date of his conviction, if, in the event of conviction for an offence, he is sentenced to a term of imprisonment exceeding 48 hours and is not

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forthwith dismissed or removed or compulsorily retired consequent to such conviction.

(3) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant under suspension, is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(4) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a government servant, is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders.

(5) (a) An order of suspension made or deemed to have been made under this rule, shall continue to remain in force until it is modified or revoked by the authority competent to do so:

(b) In respect of a government servant, whose orders of suspension stand revoked in accordance with the first or second proviso of clause (a) the authority competent may, if it considers expedient so to do, place him

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under suspension after a copy of charges and other documents, as required by sub-rule(4) of Rule 14, have been issued to him.

(c) Where a government servant is suspended or is deemed to have been suspended, whether in connection with any disciplinary proceeding or otherwise and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the Central Government shall continue to be under suspension until the termination of all or any of such proceedings.

(d) An order of suspension made or deemed to have been made under this rule, may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is sub-ordinate."

8. Rule 23 of the aforesaid rules provides an appeal which reads as under:

"23. **Orders against which appeal lies:**

Subject to the provisions of rule 22, a government servant may prefer an appeal against all or any of the following orders, namely –

(i) an order imposing any of the penalties specified in rule 10 whether made by the disciplinary authority or by any appellate or reviewing authority;

(ii) an order enhancing any penalty, imposed under rule 10;

(iii) an order of suspension made or deemed to have been made under rule 9."

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9. So far as the employees of the Banks are concerned, they are governed by the rules and regulations framed by the Banks, which provide more or less similar safeguards as contended by the rival parties.

10. So far as the question regarding ~~or otherwise of~~ the statement and discussion in Vidhan Sabha is concerned, Articles 194 and 212 of the Constitution of India have been referred to by the State counsel, which read as under :

"194. Powers, privileges, etc., of the House of Legislatures and of the members and committees thereof

(1) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in the Legislature of every State.

(2) No member of the Legislature of a State shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a House of such a Legislature of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of a House of the Legislature of a State, and of the members and the committees of a House of such Legislature, shall be such as may from time to time be defined by the Legislature by law, and, until so defined.

(4) The provisions of clauses (1), (2) and

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(3)shall apply in relation to persons who by virtue of this Constitution have the right to speak in, and otherwise to take part in the proceedings of, a House of the Legislature of a State or any committee thereof as they apply in relation to members of that Legislature.

212: Courts not to inquire into proceedings of the Legislature-

(1) The validity of any proceedings in the Legislature of a State shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any Court in respect of the exercise by him of the powers.

11. The Apex Court has considered the law in great detail in the matter of P.V. Narasimha Rao – Vs – State (CBI/SPE), 1998 (IV) SCC 626. This Court had also an occasion to deal with the said question in dispute while deciding W.P.No. 1524/2001 vide order dated 29/10/2001. The Apex Court in the case of P.V. Narasimha Rao (Supra), considering the case of Ex.P. Wason (1869) 4 QB 573: 38 LJQB, 302 has held as under:

> "Clause (1) and (2) of Article 105 are interlinked, while clause (1) secures to the Members freedom of speech in Parliament, clause (2) safeguards and protects the said freedom by conferring immunity on the members from liability in respect of anything said or any vote given by him in Parliament or in any committee thereof. This is necessary

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> because for a regulatory body like Parliament, the freedom of speech is of the utmost importance and a full and free debate is of the essence of Parliamentary democracy. In England this freedom of speech in Parliament is secured by Article 9 of the Bill of Rights. Though clause (2) of Article 105 appears to be similar to Article 9 of the Bill of Rights a closer look would show that they differ in certain aspects. Article 9 of the Bill of Rights, by prescribing that 'freedom of speech and debates on proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament', confers immunity in respect of speech, debates or proceedings in Parliament being questioned in any court or place out of Parliament. The said immunity has been construed to preclude what was said or done in Parliament in the course of proceedings there from being examined outside the Parliament for the purpose of supporting a cause of action even though the cause of action itself arose out of something done outside the Parliament."

12. So far as joining of the Minister, as party is concerned, this Court has already passed an order to delete his name. The discussion, which has taken place in Vidhan Sabha, is with reference to the questions asked and the reply given by the Minister concerned. The said discussion has taken place in accordance with the rules and practice prevailing in the Vidhan Sabha. Deliberations, discussions and the statements in the Vidhan Sabha are made as per the provisions in the Constitution, rules, practice, high traditions and conventions. So far as proceedings in the High Court under Articles 226/227 are concerned, the powers are conferred under the Constitution. The legislature, judiciary and executive have their own role to play in the democratic set-up. The disciplinary action

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against erring employee, if any, has to be judged by the disciplinary authority and/or the authority empowered under the Act, Rules and Regulations on the basis of material produced before it. So far as government servants are concerned, Article 309 and 311 of the Constitution is there. The safeguards have been provided under the Statute. They cannot be taken away and learned counsel appearing for the State fairly stated that the authorities shall act strictly in accordance with law and the rules as applicable to the employees. As such, each and individual case or class of cases of those employees shall be examined on their own merits in accordance with the law without being influenced by any of the observations.

13. Writ Petition No.725/2002 has been filed by 9 persons jointly holding different posts, Writ Petition No.764/2002 has been filed by 57 persons jointly holding different posts, Writ Petition No.785/2002 has been filed by 122 persons jointly holding different posts in different branches of Co-operative Banks and Writ Petition No.875/2002 has been filed by 13 persons jointly holding different posts in different branches of Co-operative Banks. These petitioners are holding the posts of different cadres. Each and individual case or class of cases have their own merits. The charges may be against the individual or class of individuals serving in different capacities and different role might have been played by each one of them. Each

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one of them may have his own defence, much depends on the charges. Since the aforesaid petitions have been filed jointly, ordinarily such petitions, which have been filed, would have been dismissed without adverting to the points urged by the learned counsel for the petitioner for the simple reason that the individual case and action being taken is qua each employee. This Court has applied self restraint ~~respect~~ not to dismiss the case on that ground as justice has to be tampered with mercy. Accordingly, these petitions are not thrown on that ground.

14. Learned counsel for the State submitted that so far as suspension and other proceedings are concerned, the cases of the employees shall be considered on their own merits strictly in accordance with law and without there being any extraneous considerations, as each and every employee is having his own case.

15. In view of the statement of State Counsel, in the opinion of this Court, it would be just and proper if the matter is left to the department and the bank concerned to consider the same individually or as a class. Case of each and every employee has to be considered strictly in accordance with the service rules and conditions.

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16. In the cases in hand, the charge against each of the petitioners may be individual and their cases will be examined individually on their own merits and dealt with strictly according to law without being influenced by any other considerations. If any action is taken against all and any of the petitioners and all or any of them is suspended, he or she is at liberty to avail the remedy contemplated under the rules including the one that of appeal under the rules applicable to them.

17. So far as the prayer regarding restraining the respondents from taking departmental or criminal action is concerned, in view of the discussions made above the departmental proceedings shall be conducted as per law and the disciplinary authority/competent authority in regard to criminal action shall take such actions which are warranted including lodging of first information report, complaint to the Court and in case such proceedings are initiated the authorities concerned shall investigate, enquire and deal with the matter strictly in accordance with law. However, an employee cannot escape or forestall an enquiry in respect of allegations or charges made against him, as per the service conduct rules. The acts,

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omissions and commissions shall be judged on their own merits. If the authorities proceed in accordance with law, there will be no question of harassment. An employee who is a public servant is answerable.

18. Subject to what has been stated above, these petitions are disposed of accordingly.

19. A photo copy of this order be placed in the connected cases.

SD/-
JUSTICE FAKHRUDDIN

8/5/2002

Hande/-